

Article - Transportation

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§16–404.1.

- (a) (1) In this section the following words have the meanings indicated.
 - (2) “Approved service provider” means a person who is certified by:
 - (i) The Administration to service, install, monitor, calibrate, and provide information on ignition interlock systems; and
 - (ii) A manufacturer to be qualified to service, install, monitor, calibrate, and provide information on ignition interlock systems.
 - (3) “Manufacturer” means a person who manufactures ignition interlock systems and who certifies that approved service providers are qualified to service, install, monitor, calibrate, and provide information on ignition interlock systems.
 - (4) “Participant” means a participant in the Ignition Interlock System Program.
 - (5) “Program” means the Ignition Interlock System Program.
- (b) (1) The Administration shall establish an Ignition Interlock System Program in accordance with this section.
- (2) The Administration shall establish a protocol for the Program by regulations that require certain minimum standards for all service providers who service, install, monitor, calibrate, and provide information on ignition interlock systems and include requirements that:
- (i) A service provider who applies to the Administration for certification as an approved service provider shall demonstrate that the service provider is able to competently service, install, monitor, calibrate, and provide information to the Administration at least every 30 days on individuals required to use ignition interlock systems;
 - (ii) A service provider who applies to the Administration for certification as an approved service provider shall be certified by a signed affidavit from the manufacturer that the service provider has been trained by an authorized

manufacturer and that the service provider is competent to service, install, monitor, calibrate, and provide information on ignition interlock systems;

(iii) Approved service providers be deemed to be authorized representatives of a manufacturer; and

(iv) Any service of notice upon an approved service provider, who has violated any laws or regulations or whose ignition interlock system has violated any laws or regulations, be deemed as service upon the manufacturer who certified the approved service provider.

(c) An individual may be a participant if:

(1) The individual's license is suspended or revoked under § 16–205 of this title for a violation of § 21–902(b) or (c) of this article or § 16–404 of this subtitle for an accumulation of points under § 16–402(a)(29) of this subtitle;

(2) The individual's license has an alcohol restriction imposed under § 16–113(g)(1) of this title; or

(3) The Administration modifies a suspension or issues a restricted license to the individual under § 16–205.1 of this title.

(d) (1) (i) Notwithstanding subsection (c) of this section, an individual shall be a participant if:

1. The individual is convicted of a violation of § 21–902(a) of this article;

2. The individual is convicted of a violation of § 21–902(b)(2) of this article and the minor who was transported was under the age of 16 years;

3. The individual's license is suspended or revoked under § 16–205 of this title or § 16–402(a)(38) of this subtitle for a violation of § 21–902(a) of this article;

4. The individual's license is revoked under § 16–205(b) of this title or suspended or revoked for an accumulation of points under § 16–402(a)(37) of this subtitle for:

A. Homicide by motor vehicle while under the influence of alcohol or alcohol per se, homicide by motor vehicle while impaired by alcohol, or

homicide by motor vehicle while impaired by a combination of one or more drugs and alcohol; or

B. Life-threatening injury by motor vehicle while under the influence of alcohol or alcohol per se, life-threatening injury by motor vehicle while impaired by alcohol, or life-threatening injury by motor vehicle while impaired by one or more drugs and alcohol; or

5. The individual is required to be a participant by a court order under § 27–107.1 of this article.

(ii) If an individual is subject to this paragraph and fails to participate in the Program or successfully complete the Program, the Administration shall suspend, notwithstanding § 16–208 of this title, the individual's license until the individual successfully completes the Program.

(iii) Nothing contained in this paragraph limits the authority of the Administration to modify a suspension imposed under this paragraph to allow an individual to be a participant in accordance with subsection (e) or (o) of this section.

(iv) The Administration shall issue a restricted license to an individual who is required to participate in the Program under this section and who is otherwise eligible.

(2) (i) Notwithstanding subsection (c) of this section, an individual shall be a participant as a condition of modification of a suspension or revocation of a license or issuance of a restricted license if the individual:

1. Is required to be a participant by a court order under § 27–107 of this article;

2. Is convicted of a violation of § 21–902(b) of this article and within the preceding 5 years the individual has been convicted of any violation of § 21–902 of this article; or

3. Was under the age of 21 years on the date of a violation by the individual of:

A. An alcohol restriction imposed under § 16–113(b)(1) of this title; or

B. § 21–902(b) or (c) of this article.

(ii) If an individual is subject to this paragraph and the individual fails to participate in the Program or does not successfully complete the Program, the Administration shall suspend the individual's license for 1 year.

(iii) Nothing contained in this paragraph limits the authority of the Administration to modify a suspension imposed under this paragraph to allow an individual to be a participant in accordance with subsection (e) or (o) of this section.

(iv) The Administration shall issue a restricted license to an individual who is required to participate in the Program under this section and who is otherwise eligible.

(3) Except as provided in § 16–205 of this title, an individual who is subject to this subsection shall participate in the Program for:

(i) 6 months the first time the individual is required under this subsection to participate in the Program;

(ii) 1 year the second time the individual is required under this subsection to participate in the Program; and

(iii) 3 years the third or any subsequent time the individual is required under this subsection to participate in the Program.

(4) Paragraph (3) of this subsection does not limit a longer period of Program participation that is required by:

(i) A court order under § 27–107 of this article; or

(ii) The Administration in accordance with another provision of this title.

(e) If an individual subject to subsection (c) or (d) of this section does not initially become a participant:

(1) The individual may apply later to the Administration to be a participant; and

(2) The Administration may reconsider any suspension or revocation of the driver's license of the individual arising out of the same circumstances and allow the individual to participate in the Program.

(f) (1) The Administration may:

(i) Modify a suspension and issue a restricted license to an individual who is a participant in the Program as provided under § 16–205 or § 16–205.1 of this title or § 16–404 of this subtitle;

(ii) Reinstate the driver’s license of a participant whose license has been revoked:

1. For a violation of § 21–902(b) or (c) of this article;
2. For an accumulation of points under § 16–402(a)(29) of this subtitle for a violation of § 21–902(b) or (c) of this article; or
3. Under § 16–205.1(b) or (f) of this title; and

(iii) Notwithstanding any other provision of law, impose on a participant a period of suspension in accordance with § 16–404(c)(2) and (3) of this subtitle in lieu of a license revocation:

1. For a violation of § 21–902(b) or (c) of this article;
2. For an accumulation of points under § 16–402(a)(29) of this subtitle for a violation of § 21–902(b) or (c) of this article; or
3. Under § 16–205.1(b) or (f) of this title.

(2) Notwithstanding paragraph (1) of this subsection, the Administration shall:

(i) Modify a suspension and issue a restricted license to an individual who is a participant in the Program as provided under § 16–205 or § 16–205.1 of this title or § 16–404 of this subtitle;

(ii) Reinstate the driver’s license of a participant whose license has been revoked:

1. For a violation of § 21–902(a) of this article;
2. For an accumulation of points under § 16–402(a)(38) of this subtitle for a violation of § 21–902(a) of this article; or
3. Under § 16–205.1(b) or (f) of this title.

(iii) Notwithstanding any other provision of law, impose on a participant a period of suspension in accordance with § 16–404(c)(2) and (3) of this subtitle in lieu of a license revocation:

1. For a violation of § 21–902(a) of this article;
2. For an accumulation of points under § 16–402(a)(38) of this subtitle for a violation of § 21–902(a) of this article; or
3. Under § 16–205.1(b) or (f) of this title.

(3) A notice of suspension or revocation sent to an individual under this title shall include information about the Program and how individuals participate in the Program.

(4) The Administration shall establish a fee for the Program that is sufficient to cover the costs of the Program.

(g) Subject to § 21–902.2(g)(2) of this article, the Administration shall impose a restriction on the individual’s license that prohibits the individual from driving a motor vehicle that is not equipped with an ignition interlock system for the period of time that the individual is required to participate in the Program under this section.

(h) A participant is considered to begin participation in the Program when the participant provides evidence of the installation of an ignition interlock system by an approved service provider in a manner required by the Administration.

(i) An individual whose license is suspended under § 16–404(c)(2)(iv) of this subtitle is a habitual offender whose license may not be reinstated unless the individual participates in the Program for at least 24 months.

(j) (1) For purposes of an ignition interlock system used under § 16–205(f) of this title, this section, or a court order under § 27–107 of this article, the Administration shall permit only the use of an ignition interlock system that meets or exceeds the technical standards for breath alcohol ignition interlock devices published in the Federal Register from time to time.

(2) For purposes of an ignition interlock system used under this section, the Administration shall require the Program protocol adopted by the Administration.

(k) (1) An individual required to use an ignition interlock system under a court order or this section:

(i) Shall be monitored by the Administration; and

(ii) Except as provided in paragraph (2) of this subsection, shall pay the fee required by the Administration under subsection (f)(3) of this section.

(2) The Administration shall waive the fee required under this subsection for an individual who is indigent.

(l) A court order that requires the use of an ignition interlock system is not affected by § 16–404(c)(3) of this subtitle.

(m) (1) If an individual participates in the Program under this section and participates in the Program in accordance with any other provision of law arising out of the same incident, the periods of participation in the Program shall be concurrent.

(2) If an individual participates in the Program under § 16–205.1 of this title, the individual shall receive credit toward the length of participation in the Program arising out of the same incident as authorized under subsection (c) of this section or as required under subsection (d) of this section.

(n) The Administration shall consider a participant to have successfully completed the Program if the Administration receives from the participant's approved service provider a certification that in the 3 consecutive months before a participant's date of release from the Program there was not:

(1) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more unless a subsequent test performed within 10 minutes registered a breath alcohol concentration lower than 0.04;

(2) A failure to take or pass a random test with a breath alcohol concentration of 0.025 or lower unless a subsequent test performed within 10 minutes registered a breath alcohol concentration lower than 0.025; or

(3) A failure of the participant to appear at the approved service provider when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device causing the device to cease to function as required under this section.

(o) If an individual successfully completes the Program and the individual's license is not refused, revoked, suspended, or canceled under another provision of this article, the Administration shall immediately issue a license to the licensee.

(p) (1) Notwithstanding § 16–208 of this title, if the Administration removes an individual from the Program because the individual violated requirements of the Program, the Administration may allow the individual to reenter the Program after a period of 30 days from the date of removal.

(2) If an individual reenters the Program under this subsection, the individual shall participate in the Program for the entire period of time that was initially necessary for successful completion of the Program without any credit for the period of participation before the individual was removed from the Program.

(3) Nothing contained in paragraph (2) of this subsection limits a period of participation in the Program required under any other provision of this title or § 27–107 of this article.

(q) A suspension or revocation of a license of an individual subject to subsection (c) or (d) of this section that is imposed as a result of the failure of the individual to participate in the Program or successfully complete the Program shall be concurrent with any other suspension or revocation arising out of the same incident for which the individual is subject to subsection (c) or (d) of this section.

(r) (1) If a person is required to be a participant under subsection (d) of this section, the Administration shall include in the notice of proposed suspension or revocation a warning in bold conspicuous type that the person shall participate in the Program.

(2) At the time that the Administration issues a license to a person who is under the age of 21 years, the Administration shall provide to the person a written warning in bold conspicuous type that the person shall participate in the Program if the Administration finds the person violated the alcohol restriction on a driver under the age of 21 years or the person violated any provision of § 21–902 of this article.

(3) A person may not raise the absence of the warning described under this subsection or the failure to receive that warning as a basis for limiting the authority of the Administration to require that the person participate in the Program in accordance with this section.

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